

**Jan Seva Mandal (Khadi Ghar) vs. The Commercial Taxes
Officer**

SB Civil (S.T.) Rev. Petition No.145/2004

Date of Order:

21st April, 2006

PRESENT

HON'BLE MR.JUSTICE BHAGWATI PRASAD

Mr.Neeraj Jain for Mr.Anjay Kothari for the petitioner.
Mr.Sangeet Lodha for the respondent.

Heard learned counsel for the parties.

By the order impugned two orders of the tax board contained in one order are under challenge. By one order the tax board has concurred with the provisions of the Notification dated 22.04.1999 whereby it has been provided that tax already paid shall not be refunded. The amount was deposited by the assessee as tax. By this Notification it has been held to be non-refundable. The petitioner raises grievance that the Notification has been wrongly applied by the Tax Board. Argument of the petitioner is misconceived. In view of the clear provisions the deposited tax is not refundable. Therefore, this part of the order is not found fault with.

The tax board has ordered an enquiry in relation to the tax allegedly not realised from the consumer. In view of the enquiry if any amount is found to be unrealised from the consumer then that amount shall be returned to the assessee as per the orders of the tax board. This order also cannot be said to be wrong as contented.

No error is obvious which is liable to be interfered in revisional jurisdiction because the questions sought to be raised are the questions of fact. There is no force in the revision petition, the same is dismissed.

(BHAGWATI PRASAD), J.